

TO: Members, Public Disclosure Commission

FROM: Doug Ellis  
Director of Public Outreach

DATE: August 22, 2000

SUBJECT: Continuation of Rule-Making Process – Proposed Draft Language

On August 2, 2000 staff filed pre-proposal statements of inquiry (CR 101) with the Code Reviser on eleven possible rule changes. PDC staff held a “Stakeholder Meeting” on August 9, 2000 to seek public comment on the possible rule-making topics and to give all interested persons an opportunity to participate in the process.

After the August 9, 2000 meeting, staff assessed the public comments and drafted proposed language for the rules. Outlined below are the rule making issues that were discussed and attached is draft language for each.

**Goals Regarding Access to Campaign and Lobbying Reports:** Senate Bill 6775 sets out new public access goals for 2001 and 2002. The bill directs the Commission to adopt the access goals in rule. See attached draft language.

**Reporting of Field Trips and Other Excursions:** At the April 25, 2000 meeting, the Commission adopted PDC Interpretation 00-01 effective July 1, 2000. Staff began the formal rule-making process with respect the interpretation. The proposed rule clarifies the reporting requirements for field trips and other excursions. See attached draft language.

**Commercial Loans to Candidates and Candidate Committees:** On July 15, 1996 the Commission adopted PDC Interpretation 96-02 on Commercial Loans to a Candidate. Staff has begun the formal rule-making process on this issue. The proposed amendment would implement PDC Interpretation 96-02 and Attorney General Opinion 2000 No. 4 to address commercial loans to candidates, their committees or campaigns. The amendment explains the circumstances under which campaign contributions may be used to repay the loans. See attached draft amendment language.

**WAC 390-24-010 Forms for Statement of Financial Affairs** and **WAC 390-24-020 Forms for Amending Statement of Financial Affairs.** Staff proceeded with formal rule-making on the Personal Financial Affairs Statement (PDC Forms F-1 and F-1A) to eliminate the need for filers to identify dependent children who are not employed and do not have other reportable assets or liabilities. The amendment also changes the PDC address to reflect our new room number and reference to revision date. See attached draft amendment language.

**WAC 390-18-010 Political Advertising. Identification of Sponsor.** In 1995, the State Legislature changed the language in RCW 42.17.510 and eliminated the need for sponsor identification to be in a printed or drawn box and to have the sponsor identification appear on each page of the advertising. The proposed rule amendment mirrors this 1995 statutory language. See attached draft amendment language.

**WAC 390-13-010 Optional Format for Requests for Lists of Individuals.** This proposed amendment eliminates the hold harmless agreement section for affidavits from persons making requests for public records containing lists of individuals, change the year shown on the signature block from 19\_\_ to 20\_\_, remove the reference to subsection (9) of RCW 42.17.260, and eliminate the Commission finding of confusion and lack of uniformity. See attached draft amendment language.

**WAC 390-16-011 and WAC 390-16-012** Registration Statements for Political Committees and Candidates. The proposed amendments adopt the language of the recently approved emergency rules on a permanent basis. See attached amendment language.

**WAC 390-16-044 Statewide ballot issue signature gathering expenses; reporting.** Consistent with the 9<sup>th</sup> Circuit Court of Appeals decision in (WIN) Washington Initiatives Now v. Vicki Rippie, staff began the process to repeal the rule as it implements statutory language that has been found unconstitutional. See attached WAC.

**WAC 390-20-010 Forms for Lobbyist Registration.** Staff began formal rule-making to update the contact information on the Lobbyist Registration (PDC form L-1) and to emphasis the use of business addresses and telephone numbers. The proposed amendment includes e-mail, business telephone, cell phone and pager number on the L-1 form. See attached amendment language.

Action by the Commission. At this point, staff is requesting approval of the draft language and concurrence to proceed with the rule-making process.

If all goes according to plan, staff expects to:

- 1) File the CR 102, along with proposed language, by September 20, 2000.
- 2) Schedule a public hearing for October 24, 2000 and, if you adopt the proposed rules at that meeting, have them go into effect by December 1, 2000.

Attachments:

- New language WAC 390-14-026 **Access Goals to Campaign and Lobbying Reports**
- New language WAC 390-20-146 **Reporting of Field Trips and Other Excursions.**
- Amended language for WAC 390-16-226 **Loans**
- Amended language for WAC 390-24-010 **Forms for Statement of Financial Affairs.**
- Amended language for WAC 390-24-020 **Forms for Amending Statement of Financial Affairs.**
- Amended language for WAC 390-18-010 **Political Advertising. Identification of Sponsor.**
- Amended language for WAC 390-13-010 **Optional Format for Requests for Lists of Individuals.**
- Amended language for WAC 390-16-011 **Forms – Registration Statement for Political Committees.**
- Amended language for WAC 390-16-012 **Forms – Registration Statement for Candidates.**
- WAC 390-16-044 **Statewide ballot issue signature gathering expenses; reporting.**
- Amended language for WAC 390-20-0101 **Lobbyist Registration**

## **DRAFT 01**

# **ACCESS GOALS TO CAMPAIGN AND LOBBYING REPORTS**

### **New Rule**

#### **WAC 390-14-026 Access Goals to Campaign and Lobbying Reports**

The Commission sets the following goals for access to all reports, copies or reports, or copies of data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180.

(1) In January of 2001, when reports are filed with the Commission, staff will endeavor to make the report available as follows:

(a) Submitted by electronic means:

- (1) available in the Commission office within two business days and;
- (2) available on the Commission website within four business days.

(b) Submitted on paper:

- (1) available in the Commission office within four business days and;
- (2) available on the Commission website within seven business days.

(3) In January of 2002, when reports are filed with the Commission, staff will endeavor to make the report available as follows:

(a) Submitted by electronic means available in the Commission office and on the Commission website within two business days and;

(b) Submitted by paper, available in the Commission office and on the Commission website within four business days.

# **DRAFT 01**

## **FIELD TRIPS AND OTHER EXCURSIONS**

New Rule.

### **WAC 390-20-146 Reporting of Field Trips and Other Excursions**

(1) All persons required to file reports pursuant to RCW 42.17.170 who provide field trips or other excursions to elected and appointed officials, and other individuals required to file the Personal Financial Affairs Statement (PDC Form F-1) shall file, on the appropriate monthly L-2 or L-2 Memo Report, the identity of persons attending the field trip or other excursion along with the date, pro rata cost, and a brief description of the field trip or other excursion.

(2) All persons required to file pursuant to RCW 42.17.241 who attend a field trip or other excursion paid for or provided by a lobbyist or lobbyist employer shall report the date, name of the lobbyist employer, pro rata cost attributable to the filer, applicable code value, and a brief description of the field trip or other excursion as part of the F-1 statement that covers the date of the field trip or other excursion.

## **DRAFT 03**

# **COMMERCIAL LOANS**

### **Proposed Amended Rule WAC 390-16-226 Loans**

(1) Only loans which are recorded in a written loan agreement executed at the time of the loan and properly reported may be repaid by a candidate or political committee. Surplus campaign funds under RCW 42.17.020 and 42.17.095 may only be used to return a contribution to the candidate if the contribution was properly reported as a loan from the candidate, as described in subsections (2) and (3).

(2) If any person gives or loans the candidate funds in connection with his or her campaign, the funds are not considered personal funds of the candidate. See WAC 390-17-305. Such funds are considered a contribution from the original source of the contribution under chapter 42.17 RCW unless the loan meets the exemption provided in RCW 42.17.720(3) and this subsection.

(a) If a candidate or candidate's own political committee or campaign or authorized committee receives a loan from a commercial lending institution, the loan is exempt from the contribution limits of RCW 42.17.640 and WAC 390-16-310 only if all the following criteria are met:

- (i) the loan is not guaranteed by any other person;
- (ii) the loan is made in the regular course of business; and,
- (iii) the loan is made on the same terms ordinarily available to the public.

(b) A commercial loan to a candidate's own committee or campaign or authorized committee is presumed to be guaranteed by the candidate. The presumption is rebuttable by clear, cogent and convincing evidence.

(3) The amount of campaign contributions which may be used to repay a loan made by the candidate to the candidate's own political committee or campaign, or to repay a commercial loan to a candidate's own political committee or campaign where the candidate is the borrower or guarantor, is limited to the loan repayment limit in RCW 42.17.125(3) as adjusted by WAC 390-05-400. For the purposes of the \$3000 loan repayment limit imposed by RCW 42.17.125(3), these loans by a candidate are aggregated for each primary, general, special or recall election and must be designated accordingly by the candidate at the time the loan is made.

(4) If a candidate makes documented out-of-pocket campaign expenditures on behalf of his or her campaign expecting repayment (not intending to make an in-kind contribution), the campaign committee must repay the candidate within 21 days of the expenditure or the candidate will be deemed to have made a loan to his or her campaign committee which must qualify for repayment under subsections (1) and (2) in order for the candidate to be repaid. Undocumented out-of-pocket campaign expenditures by the candidate are in-kind contributions not eligible for repayment.

## **DRAFT 02**

# **STATEMENT OF FINANCIAL AFFAIRS**

**WAC 390-24-010 Forms for statement of financial affairs.**

The official form for statements of financial affairs as required by [RCW 42.17.240](#) is designated "F-1," revised ((11/97)) 11/00. Copies of this form are available at the Commission Office, 711 Capitol Way, Room ((403)) 206, Evergreen Plaza Building, PO Box 40908, Olympia, Washington 98504-0908. Any attachments must be on 8-1/2" x 11" white paper.

(See reverse for F-1 Form)

## **DRAFT 02**

# **AMENDING STATEMENT OF FINANCIAL AFFAIRS**

### **WAC 390-24-020 Forms for amending statement of financial affairs.**

- (1) The official form for amending statements of financial affairs as required by [RCW 42.17.240](#) for all persons who have previously filed the Form F-1 is designated Form "F-1A," revised ~~((11/97))~~ 11/00.
- (2) No more than three F-1A forms may be filed to amend a previously submitted statement of financial affairs (Form F-1). The form can be used only to update information required on an F-1.
- (3) The Commission reserves the right to reject amendatory forms and require a new statement of financial affairs (Form F-1) at any time the amendments are confusing or create misunderstandings. Authority is delegated to the commission's executive director to make this determination.
- (4) Copies of Form F-1A are available at the Commission Office, 711 Capitol Way, Room ~~((403))~~ 206, Evergreen Plaza Building, PO Box 40908, Olympia, Washington 98504-0908. Any attachments must be on 8-1/2" x 11" white paper.

(See reverse for F-1 Form)



# **DRAFT 01**

## **POLITICAL ADVERTISING – IDENTIFICATION OF SPONSOR**

### **WAC 390-18-010 Political advertising -- Identification of sponsor.**

(1) For the purposes of [RCW 42.17.510](#) and this rule, "sponsor" means the candidate, political committee or other person paying for the advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(2) With advertising for which no payment is demanded or for which a cost is not readily ascertainable, the sponsor is the candidate, political committee or person who solicits or arranges for the advertising to be displayed or broadcast.

(3) If more than one person sponsors specific advertising, the identity of each sponsor must be shown. However, if a person contributes in cash or in-kind to a candidate or political committee to assist in paying the cost of advertising, it is unnecessary to include that contributor's name as a sponsor provided the contribution is reported in accordance with applicable provisions of [chapter 42.17 RCW](#).

(4) Printed advertising shall clearly state (~~in a printed or drawn box~~) set apart from any other printed matter that it has been paid for by the sponsor (Example:

(1) Paid for by the XYZ Committee, mailing address, city, state, zip code; (2) Vote for John Doe, paid for by John Doe, mailing address, city, state, zip code).

Broadcast advertising shall conform to the requirements of the Federal Communications Commission.

(5)(a) Political advertising consisting of more than one page but intended to be presented as a single item (i.e. 3-page letter with return envelope) must identify the sponsor on (~~each page~~) the first page or fold of the advertising.

Identification on an enclosed return envelope or the envelope in which the advertising is sent is not sufficient.

(b) Political advertising which is a collection of several items relating to more than one candidate or committee and distributed simultaneously must show the respective sponsor on the respective items.

# **DRAFT 01**

## **REQUEST FOR LISTS OF INDIVIDUALS**

### **WAC 390-13-010 Optional format for requests for lists of individuals.**

The use of a list of individuals obtained from an agency for commercial purposes is prohibited by [RCW 42.17.260](#) ~~((9))~~. ~~((The commission finds that the term "commercial purposes" has been interpreted by different agencies in inconsistent ways resulting in confusion and a lack of uniform administration of that statute. ))~~ Therefore, the following format is adopted by the commission and authorized for use by agencies, at their option, to bring uniformity to the administration of that statute.

(See reverse side for sample)

(Name of Agency) PUBLIC RECORDS ACCESS

STATE OF                    |        AFFIDAVIT TO  
WASHINGTON            > ss. RELEASE PUBLIC  
                                 |        RECORDS  
COUNTY OF . . . . .  
. . . . .

(Name and Address)

having been duly sworn, deposes and says:

1. I have requested copies of the following public records:
2. I understand that Washington state law, [RCW 42.17.260](#)~~((9))~~, prohibits the use of lists of individuals for commercial purposes.
3. I understand that the use for commercial purposes of said records may also violate the rights of the individuals named therein and may subject me to liability for such commercial use.
4. I understand that section 2 [and] [or] 3 herein apply when I use said records for commercial purposes and when others use said records or copies of same for commercial purposes. I understand that I may be liable in either case.
5. I understand that "commercial purposes" means that the person requesting the record intends that the list will be used to communicate with the individuals named in the record for the purpose of facilitating profit expecting activity.
6. Therefore, I do hereby swear and affirm on oath and under penalty of law that I will not use said records for commercial purposes and that further, it is my affirmative duty to prevent others from using said records for commercial purposes.
- ~~(( 7. I do further swear and affirm on oath and under penalty of law that I will protect and hold harmless, including the cost of defending, the agency and its agents and employees from which I have obtained said records from any and all claims arising either directly or indirectly from the commercial use of said records ))~~

Signature

SUBSCRIBED AND SWORN to before me this day  
of ~~(( 19- ))~~ 20.

Notary Public in and for the state  
[of the State] of Washington residing  
[at] .

## **DRAFT 02**

# **REGISTRATION STATEMENT FOR POLITICAL COMMITTEES**

**WAC 390-16-011 Forms -- Registration statement for political committees.**

The official form for providing the statement of organization by political committees for designating a campaign treasurer and depository and for reporting information required to qualify for abbreviated campaign finance reporting is designated "C-1pc," revised ((12/99)) 11/00. Copies of this form are available at the Commission Office, 711 Capitol Way, Room ((403)) 206, P.O. Box 40908, Olympia, Washington 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.

(See reverse side for C-1PC form)

## **DRAFT 02**

# **REGISTRATION STATEMENT FOR CANDIDATES**

**WAC 390-16-012 Forms -- Registration statement for candidates.**

The official form for providing the statement of organization by candidates and candidate's committees, for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting or abbreviated campaign finance reporting is designated "C-1," revised ((12/99)) 11/00. Copies of this form are available at the Commission Office, 711 Capitol Way, Room ((403)) 206, P.O. Box 40908, Olympia, Washington, 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.

(See reverse side for C-1 form)

# **DRAFT 01**

## **SIGNATURE GATHERING REPORTING**

### **WAC 390-16-044 Statewide ballot issue signature gathering expense -- Reporting.**

(1) A political committee making expenditures for the purpose of soliciting or procuring signatures on petitions to place an initiative or referendum on a statewide ballot shall report the total expenditures for the reporting period on Schedule A to Form C-4. An attachment to the Schedule A shall include, per [RCW 42.17.090](#) (1)(g), the name, address, and amount paid to each person for the services, and the date of each payment.

(2) When the expenditure in (1) is to a person who employs others to secure signatures, the information on the attachment to Schedule A shall be supplemented with such additional attachments as may be necessary to detail the name and address of each and every other person paid, the amount paid to each, and the date of each payment.

[Statutory Authority: [RCW 42.17.370](#). 93-19-034, § 390-16-044, filed 9/7/93, effective 10/8/93.]

## **DRAFT 02**

# **LOBBYIST REGISTRATION**

**WAC 390-20-0101 Forms for lobbyist registration.**

The official form for lobbyist registration as required by [RCW 42.17.150](#) is designated "L-1," revised ((3/94)) 11/00. Copies of this form are available at the Commission Office, Room ((403)) 206, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

(See reverse side for form)